

1 Q Do you know what the percentage of the membership of
2 the Lutheran Church/Missouri Synod is African-American?

3 A I recall 50,000 and I really want to talk that
4 number because our -- my drive is to get more and I do know
5 that in the schools of our church in some areas -- in this
6 area where I've worked a lot we have 10 percent of, of
7 African-Americans in the school is stretched over a five-state
8 area. And overall in the church there is something like seven
9 percent when we put all together. So, it varies, it's up and
10 down, but in terms of African-American in the Lutheran Church/
11 Missouri Synod, we have 50,000.

12 JUDGE STEINBERG: I worked out the percentage. In
13 paragraph 2, the first sentence, the church membership is 2.6
14 million and the church is defined as Lutheran Church/Missouri
15 Synod and 50,000 African-Americans, that percentage comes out
16 to 1.9 percent subject to somebody checking my math. I used a
17 calculator so, I -- still I'm capable of doing it by hand but
18 I choose not to.

19 BY MS. LADEN:

20 Q Do you know what the percentage of the student body
21 of the Concordia Seminary in St. Louis, specifically that
22 seminary, do you know what the percentage of the student body
23 is African-American?

24 A Well, we have, we have at least two seminaries with
25 -- there are 14 students this, this year and that

1 percentage -- I mean, it's up and down in terms of numbers. I
2 want to talk numbers rather than percent so that as I look at
3 those numbers I think there's about seven of those at
4 Concordia here in -- at Concordia-St. Louis and, and roughly
5 seven at the other seminary.

6 Q Seven percent?

7 A Seven students.

8 JUDGE STEINBERG: Seven people.

9 BY MS. LADEN:

10 Q Students.

11 A And then this summer we, we have 18 students
12 beginning a first-year effort at Concordia College -- under
13 the auspices of Concordia-Ft. Wayne Seminary which kind of
14 moved -- it moves our numbers up considerably. But it's all
15 part of our, our recruitment effort and I want to talk numbers
16 because that helps me to, to say to people we've got this
17 number of people at the seminary. Now, over the years I'm
18 aware that those numbers are up and down. Some years we have
19 -- we've had as few as two and one at, at the time so it
20 fluctuates.

21 JUDGE STEINBERG: Over the last -- from 1983 to
22 1990, what, what are -- if, if you know, what -- what's the
23 highest number of African-American students that you had at
24 Concordia Seminary, if you know?

25 WITNESS: I would, I would think about five stands

1 out in my mind --

2 JUDGE STEINBERG: Okay. So, five --

3 WITNESS: -- as, as a kind of average, as a kind of
4 average.

5 JUDGE STEINBERG: During that whole period?

6 WITNESS: Yeah, as a kind of average.

7 JUDGE STEINBERG: At specifically Concordia Seminary
8 --

9 WITNESS: Right.

10 JUDGE STEINBERG: -- in St. Louis?

11 WITNESS: Right. That would, that would be as a
12 kind of average.

13 BY MS. LADEN:

14 Q Reverend Clancy, what has been the reaction of the
15 church -- Lutheran Church/Missouri Synod leadership to your
16 efforts to increase the participation of African-Americans?

17 A Well, it's strange you should say that. I, I just
18 finished my address for a convocation that's going be held on
19 July 6 to 10 and one of the things that, that I have said
20 based on my experience now in this position that I'm in is
21 that in almost every position of leadership in our church --
22 and when I say in our church I'm talking districts. We have
23 35 districts in, in our church, that and the seminaries and
24 the colleges. I mean, every place of leadership I feel a kind
25 of can-do spirit with this ministry. We will unfold at this

1 convocation a document from -- just prepared by CTCR which is
2 -- it's really our kind of Supreme Court in our church in
3 terms of doctrine. Has just produced a document called --
4 which we really try to, to root out discrimination in our
5 church and that goes back from 1986. The convention said to
6 the CTCR we want you to produce a document that will help our
7 church get at the issue of racism and encourage our leaders to
8 work with that. So at this convocation we will unfold that
9 document from the CTCR which we have had a hand in -- by we I
10 mean other people like myself have had a hand in trying to say
11 we think this is what will really put -- move the ministry
12 forward in the '90s and in the new century. So, that has been
13 our -- I find a good spirit. Now, I know that's, that's
14 growth, I know that's part of striving to, to be -- and I say
15 that always -- say that the executive before me did not have
16 the, the climate in which I have come to work in the church
17 and I need to just say that --

18 Q You would say that the climate in your tenure has
19 been supportive?

20 A Yes. Very much so.

21 Q When did you begin this ministry?

22 A In 1990.

23 Q 1990?

24 A Yes. July 1.

25 MS. LADEN: I have no further questions. Thank you.

1 JUDGE STEINBERG: Any redirect?

2 MS. SCHMELTZER: No, we have no redirect.

3 JUDGE STEINBERG: Okay. Reverend Clancy, you're
4 excused. Thank you very much for coming and testifying. I
5 told you I'd get you out of here in one piece.

6 WITNESS: That's all?

7 JUDGE STEINBERG: That's all. Unless you want to
8 stay here and say some more. You can make up your own
9 questions and then answer them.

10 WITNESS: Thank you.

11 JUDGE STEINBERG: Thank you very much.

12 WITNESS: Thank you.

13 MS. LADEN: If we may just have a short break. We
14 have to get Mr. Stortz.

15 (Whereupon, off the record at 10:10 a.m. Back on
16 the record at 10:16 a.m.)

17 JUDGE STEINBERG: Now, Mr. Zauner, cross-
18 examination?

19 MS. LADEN: We've recalled Mr. Dennis Stortz. I
20 just want to make the record clear.

21 JUDGE STEINBERG: Thank you. Thank you. That's
22 right. Reverend Clancy's been excused. Mr. Stortz is back on
23 the witness stand. I just want to let you know your oath
24 hasn't expired yet. I don't know if there's an expiration
25 date for oaths but if there is today's not it.

1 WITNESS: Hasn't come.

2 JUDGE STEINBERG: It hasn't come, so you're still
3 under oath and thank you, Ms. Schmeltzer.

4 Whereupon,

5 DENNIS STORTZ

6 under penalty of perjury, after having been previously duly
7 sworn, was recalled as a witness herein and was examined and
8 testified as follows:

9 REDIRECT EXAMINATION

10 BY MR. ZAUNER:

11 Q Good morning, Mr. Stortz.

12 A Good morning, Mr. Zauner.

13 Q Ms. Stortz, I'd like to begin this morning by
14 calling your attention to NAACP Exhibit 63. If your counsel
15 has a copy of that to provide you I would appreciate it.

16 MS. SCHMELTZER: Which is 63?

17 JUDGE STEINBERG: That's one of the -- that's the
18 one with the interview sheets. The ratings and the eights and
19 the nines and is good-mannered, greets people, etc.

20 BY MR. ZAUNER:

21 Q Do you know why this form was utilized in 1990 -- in
22 January of 1990?

23 A Yes.

24 Q Could you tell us why it was utilized?

25 A Yes. The person that did the interviewing for these

1 positions had previous background in interviewing people and
2 personnel styles and this was a format that she was familiar
3 with.

4 Q Had she interviewed employees previously for the
5 station?

6 A No, she had not.

7 Q Why was she chosen in 1990 to do the interviewing?

8 A She was a very competent person and had personnel
9 background.

10 Q Could you tell us what that person's name was or is?

11 A Angela Burger.

12 Q Am I correct that all of the people whose names are
13 included in this exhibit were all applying for the position of
14 receptionist at the station?

15 A Receptionist or maintenance worker.

16 Q Prior to January 1990 when the station was hiring
17 for a position, let's take one position, the receptionist
18 position, did the station, did the station in considering
19 applicants consider the voice of the applicant, whether the
20 applicant had a good voice, whether the applicant made a good
21 appearance? Were these some of the criteria that the station
22 looked at?

23 A I would think so, yes.

24 Q Did they look to determine whether the applicant had
25 a positive attitude?

1 A I would think so.

2 Q Did they look to see whether the applicant had good
3 communication skills in evaluating the applicant for a
4 position?

5 A Are you referring to when I interviewed for a
6 receptionist position or just the station as a --

7 Q Yes. Did you interview at some time prior to 1990
8 for a receptionist position?

9 A I did interview one receptionist earlier.

10 Q This was prior to 1990?

11 A Yes.

12 Q Do you know what year it was roughly?

13 A '86, maybe.

14 Q '86?

15 A Six.

16 Q At that time did you consider in evaluating the
17 applicant the applicant's communication skills?

18 A I believe I did, yes.

19 Q Did you look to see whether the applicant was
20 motivated or to, to work for the station? Is that something
21 that you looked at in evaluating applicants?

22 A Yes.

23 Q Did you look to try to ascertain whether the
24 applicant was organized or not, or appeared to be organized at
25 least?

1 A To the extent that you can do that, yes.

2 Q Did you consider in your own mind whether the
3 applicant would make a good greeter?

4 JUDGE STEINBERG: Greeter?

5 BY MR. ZAUNER:

6 Q Greeter, G-R-E-E-T-E-R. Good at greeting who came
7 to the station because the position is a receptionist
8 position?

9 A I believe so, yes.

10 Q Did you consider in evaluating the applicant whether
11 the applicant worked well with people, or whether you thought
12 they would work well with people?

13 A I believe that would be a good quality to have, yes.

14 Q Did you consider in interviewing the applicant the
15 applicant's ability to prioritize jobs and, and whether that
16 applicant would -- in deciding whether that applicant would be
17 a good employee for the station?

18 A I don't recall specifically thinking about that.

19 Q Did you attempt to evaluate the applicant as to
20 whether or not the -- whether or not you thought the applicant
21 would be dependable as an employee?

22 A Yes.

23 Q Did you evaluate the applicant to determine in your
24 own mind whether you thought the applicant had a pleasant
25 personality?

1 A I think so, yes.

2 Q Am I correct then that many of the, many of the
3 categories of evaluation that were utilized in 1990 then had
4 been utilized previously at the station in connection with the
5 hiring of other employees at the station?

6 A Well, at least from my experience I think you could
7 infer that, yes.

8 Q So then -- although, although -- am I correct then
9 although the form may have been new in the fact that all of
10 these items were written down, in fact these same standards
11 had been in, in place at the station for some time, is that
12 correct, but just had not been written down?

13 A I would generalize it in that way, yes.

14 MR. ZAUNER: Just one second to get some exhibits,
15 Your Honor.

16 BY MR. ZAUNER:

17 Q I'm going to call your attention if I may to NAACP
18 Exhibits 35 and through I believe 40 and 41.

19 MS. SCHMELTZER: Do you want him to see NAACP
20 Exhibits 35 through 41?

21 MR. ZAUNER: Yes.

22 MS. SCHMELTZER: Okay. I'm going to place the NAACP
23 exhibits in front of him beginning with 35. If you want to
24 familiarize yourself with those.

25 BY MR. ZAUNER:

1 Q Yesterday evening you were asked some questions by
2 the counsel for NAACP concerning the posting of positions at
3 the station. Looking at Exhibit 35 and the position guides
4 there, were any of these position guides ever posted at the
5 station to your knowledge?

6 MR. HONIG: Objection. Asked and answered.

7 MR. ZAUNER: This is a preliminary -- I understand
8 that question, it was asked and answered but I understand
9 there were a series of questions that followed that in which
10 the question to the witness was --

11 JUDGE STEINBERG: Okay. It's overruled. It's, it's
12 a foundation question and refreshing the witness's
13 recollection as to what went on yesterday I guess.

14 WITNESS: I believe they would be posted if there
15 was a job opening, not, not just to post the positions.

16 BY MR. ZAUNER:

17 Q What, what would be posted? Would it be a job
18 announcement, position announcement or would it be the, the
19 position guide or it be both, or would it be none of them?

20 MR. HONIG: Same objection, Your Honor. This has
21 been all gone over. He was shown the documents and asked were
22 they posted.

23 MS. LADEN: Your Honor, if I may interject. I was
24 here yesterday and Mr. Zauner was not. The question was asked
25 once yesterday. Then with respect to exhibits which followed

1 Exhibit 35 the question was same question with respect to
2 Exhibit 36. The question was not repeated. I -- the
3 questions that preceded the first question asked whether the
4 vacancies were posted. The purpose of this line of cross-
5 examination is to determine -- because I for one was left
6 confused yesterday, to determine whether these documents,
7 these position guides themselves were posted or whether the
8 witness intended to indicate that the vacancies represented by
9 these position guides were posted. I don't think that was
10 clear from the record yesterday.

11 JUDGE STEINBERG: Okay. Can you -- I'll -- can you
12 ask it that way? I -- my recollection is that we went through
13 -- I don't -- I'm guessing, 34, five, six, 39 and 40 --

14 MS. SCHMELTZER: 38, 38 was withdrawn.

15 JUDGE STEINBERG: Okay. I didn't say 38. I said --
16 well, anyway, 34, five, six, seven, 39, 40, 41 individually
17 and the witness was asked whether these position descriptions
18 were posted both either at the radio station or the church
19 headquarters or both. I think we did that.

20 MS. LADEN: Your Honor, I hate to disagree with you.
21 He was asked that question once. The wording of the -- the
22 next time he was asked he said, "Now, would you answer the
23 same question as to Exhibit 36."

24 JUDGE STEINBERG: Okay. Let's --

25 MS. SCHMELTZER: I agree with Ms. Laden.

1 JUDGE STEINBERG: Let's --

2 MS. SCHMELTZER: I don't think the record is clear
3 from yesterday.

4 MR. HONIG: That's not correct.

5 JUDGE STEINBERG: Well, obviously we don't have the
6 transcript here and I'll allow Mr. Zauner some leeway and why
7 don't you ask the questions and I don't remember, I don't
8 remember and I know I don't have any notes on it and we don't
9 have any transcripts.

10 BY MR. ZAUNER:

11 Q With regard to the position guides that are included
12 in Exhibit 35, do you know whether these guides were
13 physically posted at the station at the time positions were
14 open that they referred to?

15 A To the best of my knowledge, yes.

16 Q Let me ask you with regard to --

17 JUDGE STEINBERG: Do you want to ask the same with
18 respect to the church headquarters or that doesn't matter?

19 BY MR. ZAUNER:

20 Q Well, let me ask the same question. Do you know
21 whether they were posted at the church headquarters?

22 A I don't know if it was the exact form that was
23 posted or a summary.

24 Q That answer -- does that answer go only to the
25 church headquarters?

1 A Correct.

2 Q But at the station itself the position guide was,
3 was posted?

4 A Yes.

5 MR. ZAUNER: Your Honor, I think my co-counsel has
6 informed me that she thinks that that clarifies his answer and
7 gives the information that we now needed on, on that document
8 and so I, I will take that -- this line no further.

9 JUDGE STEINBERG: Okay.

10 BY MR. ZAUNER:

11 Q Let me call your attention to your Exhibit 4,
12 page 7. There you indicated it was helpful for certain
13 secretaries to be familiar with the Lutheran Church because
14 part of their job was to contact pastors to enlist volunteers
15 for share-a-thons. As I understood your testimony yesterday,
16 the secretary's principal role was in scheduling ministers for
17 these share-a-thons and for other programs that the church
18 had. Is that correct?

19 A Certain secretaries, yes.

20 Q Did the scheduling of these ministers require the
21 secretaries to have familiarity with Lutheran doctrine?

22 A It was helpful if they were familiar with the
23 calendars of the Lutheran Church and the, and the biblical
24 teachings of the Lutheran Church.

25 Q Well, why if all they were doing was scheduling

1 ministers or other Lutherans to appear on programs did they
2 have to themselves have knowledge of the Lutheran calendar?

3 And --

4 A Because the ministers that come to the radio station
5 to speak or to do a Bible study or to appear on a worship
6 program want to know what church day they'll be addressing,
7 what part of the Bible they will be addressing and --

8 Q Are you telling --

9 A -- what, what is expected of them.

10 Q Are you telling me that the secretaries made these
11 decisions as to what part of the Bible they would be
12 addressing and what church days they would be addressing?

13 JUDGE STEINBERG: They meaning the ministers?

14 BY MR. ZAUNER:

15 Q They being the ministers. You had secretaries at
16 the church making -- at the stations making these decisions?

17 A Not necessarily making the decision that the
18 minister would be speaking on what portion of the Bible, but
19 they would be conveying that information and lining up the
20 information.

21 Q Well, who would make the decision as to which
22 ministers to invite to appear on the station?

23 A Usually that would be the program director, but
24 secretaries would do that sort of work as well.

25 Q And so a secretary at the station might sit down and

1 say gee, I think I will have Reverend Devantier on next Sunday
2 to speak?

3 A Because it's some day in the church calendar and we
4 need to address that. That would be correct.

5 JUDGE STEINBERG: In that connection, give me an
6 example of -- just any example of, of a church -- something
7 that someone would address on the church calendar.

8 WITNESS: Right. I'd say that.

9 JUDGE STEINBERG: Yeah. Just an example of just one
10 thing so I can use something concrete.

11 WITNESS: I can give you two examples that would
12 come from the New Testament for the Sunday, it's called
13 Pentecost Sunday and Trinity Sunday.

14 JUDGE STEINBERG: Okay. So, on the Lutheran
15 calendar which we established yesterday was the regular
16 calendar that everybody uses but that each Sunday has special
17 significance to the Lutherans. And so one Sunday would be
18 called Trinity Sunday and one would be Pentecost Sunday. Are
19 there specific -- I mean, do ministers kind of specialize so
20 that one minister would be more familiar with Trinity Sunday
21 than another and the portions of the Bible to be read or
22 interpreted on Trinity Sunday so that a secretary would have
23 to know, well, this is Trinity Sunday and ministers A, B, C
24 and D have specialized knowledge or interest in Trinity Sunday
25 and so the secretary would make a determination I'll call

1 either A, B or C? Is that the way it worked?

2 MS. SCHMELTZER: Your Honor, before the witness
3 answers this question, I just want to make --

4 JUDGE STEINBERG: Yeah, I mean, I'm --

5 MS. SCHMELTZER: -- I just want to make it clear
6 that when I made the continuing objection yesterday --

7 JUDGE STEINBERG: Right.

8 MS. SCHMELTZER: -- about the 1st Amendment, this is
9 precisely the kind of inquiry that I was concerned about. I
10 don't think that the constitution of this country contemplates
11 this kind of an inquiry into the operation of a religious
12 entity, and the Commission has been licensing religious
13 entities over the years and nowhere in the annals of the
14 Commission or the courts is there this kind of entanglement
15 between church and state.

16 JUDGE STEINBERG: I'm don't -- I'm not -- I don't
17 think this is entanglement. I think what I'm doing is I'm,
18 I'm trying to clarify in my mind and through the record why
19 Mr. Stortz believed it would be, "Also helpful to certain
20 secretaries to be familiar with the Lutheran Church because
21 part of their past -- part of their job was to contact persons
22 -- volunteers for share-a-thons," and he testified yesterday
23 for other -- I'm just trying to understand that, but I'm
24 willing to withdraw the question. I don't want to, I don't
25 want to get in trouble with --

1 MR. GOTTFRIED: Your Honor, just so that the Court
2 is aware of our position. In the "Amos" case in the United
3 States Supreme Court the Mormon Church came into court and
4 said we need Mormon janitors. What that case stands for the
5 proposition is that -- by the Mormon Church is exempt from
6 Title 7.

7 JUDGE STEINBERG: Okay, but --

8 MR. GOTTFRIED: Well, let me just finish. Not from
9 the FCC's rules. It's our position that that represents a
10 national policy, that the bureaucracy is not to second guess
11 the church's judgments about which of its positions require
12 religious training.

13 JUDGE STEINBERG: Okay. So, basically -- wait. I
14 don't want to argue this.

15 MR. GOTTFRIED: This is our position.

16 JUDGE STEINBERG: Okay. Okay. That's your
17 position. That's way above my level, okay?

18 MR. GOTTFRIED: I understand.

19 JUDGE STEINBERG: Way above my level. I mean, I
20 know about "King's Garden." I was working with "King's
21 Garden" when it first came out because all heck broke loose
22 when it first came out. And anyway, I'll, I'll let Ms. Laden
23 --

24 MS. LADEN: I just wanted to point out because the
25 "Amos" case has not yet been mentioned on the record here that

1 that precise argument was made in "King's Garden." Of course,
2 "King's Garden" preceded "Amos," but that argument, that the
3 exemption in Title 7 represented a national policy which
4 should be applied to the FCC as a national policy, that
5 argument was made and rejected in "King's Garden."

6 MR. GOTTFRIED: Your Honor, and we believe the
7 decision, that "Bazalon" was correct. That "Bazalon"
8 dissented and said that represented a national policy. He
9 went on to say that that policy was unconstitutional and
10 therefore the matter -- it didn't matter anyway. We believe
11 the decision in "King's Garden" it is incorrect and that
12 "Bazalon's" dissent was correct except that the policy is
13 constitutional as held --

14 JUDGE STEINBERG: Okay. Well, that --

15 MR. GOTTFRIED: We'll make that argument at the
16 appropriate --

17 MS. LADEN: Your Honor, I think -- I respect that
18 view but I believe we're bound by the decision in "King's
19 Garden."

20 JUDGE STEINBERG: Well, we'll let, we'll let Mr.
21 Honig make, make a comment briefly and then we'll get -- I'm,
22 I'm withdrawing the question. I mean, I don't need to know.
23 I'm not that curious.

24 MR. HONIG: Your Honor, I would not want you to feel
25 that you should withdraw the question. Ms. Schmeltzer is

1 partly but not completely correct and I'd like to distinguish
2 between where she's correct and where she's not correct. When
3 -- under Title 7 there is a concept called pretext which
4 basically says that when an allegation of discrimination is
5 asserted a defense to it may be nothing but -- may not be
6 genuine and if it's genuine, however, it shifts the burden.
7 What the genuine assertion proven up of a nexus between the
8 job and, and religious practice, when that's asserted that's,
9 that's -- and it's proven up, then it's not pretext. It
10 answers it and then there's a heavy burden on the respondent
11 -- on the original plaintiff or complainant to show that it,
12 that it really was. However, it still have to be proven up
13 after which it cuts things off. In that respect she's right.
14 And that, that means that you can still go into whether there
15 is a reasonable nexus and whether this was genuine, for
16 instance, does a janitor have to be a Lutheran. But, but
17 that's a question of facts which gets decided before a court
18 reaches the constitutional question, you reach the
19 constitutional question last. I might add that the Commission
20 has had a good deal of experience in addressing these
21 questions. The statement was made yesterday that this is the
22 first case with a church with its license renewal. Actually,
23 it's at least the fifth by my count. The Trinity case is now
24 being -- it's just been tried involving Trinity Network.
25 MS. SCHMELTZER: It's not an EEO case, Your Honor.

1 MR. HONIG: The, the -- if I may, the "Kings Garden"
2 case from 1972, "Faith Center" case from 1977, "The Heritage
3 Church," the "Jim Bakker" case from '79, and the "Trinity
4 Methodist" case from 1931 which of course precedes the Act.
5 In each of those cases the same defense was made and in each
6 of those cases the Commission allowed the taking of factual
7 testimony subject to argument later on the constitutional
8 questions.

9 JUDGE STEINBERG: Well, I'm, I'm going to -- to the
10 extent that that was an objection, I'm going to sustain the
11 objection. I'm not that curious, but I'm flattered that a
12 case that I'm presiding over may actually work its way up to
13 the Supreme Court. You know, maybe the Supreme Court will
14 mention my name and I can put the page on my wall -- but
15 anyway, so that question is withdrawn. If someone else is
16 curious then -- the burden is on the Church and the facts
17 don't bear what their assertions -- they bear out what their
18 assertions are then they'll bear them out.

19 BY MR. ZAUNER:

20 Q You also indicated yesterday that engineers required
21 Lutheran training. Is that correct that the engineers at the
22 station -- let me withdraw that question and ask you was it
23 your testimony that engineers at the station -- or that the
24 station preferred that the engineers had Lutheran background?

25 JUDGE STEINBERG: Why don't you just ask instead of

1 was that your testimony yesterday --

2 BY MR. ZAUNER:

3 Q Okay. I understand -- did the require its engineers
4 to have a Lutheran background?

5 A I'll preface that by saying that in my whole tenure
6 at the station, the stations only had two engineers and they
7 had been there and still are there, so what happened in 1965
8 or something I'm not sure why they were hired then. I, I
9 think the question yesterday came up why would it be helpful
10 if the engineer had some familiarity with the Lutheran Church.
11 I think that was more the gist of the question. Is that fair?

12 Q I think if we take a look at the NAACP Exhibit
13 No. 39, pages 9, 10 and 11, there's a duty description for the
14 chief engineer and it's dated October 1986.

15 JUDGE STEINBERG: Let Mr. Stortz get to that,
16 please, before you ask the question. Exhibit NAACP 39,
17 page 9.

18 MR. ZAUNER: Correct, and the following pages 10
19 and 11.

20 JUDGE STEINBERG: Okay. Why don't you review that
21 to yourself?

22 BY MR. ZAUNER:

23 Q And specifically I call your attention to page 11
24 where it says, "Other desirable."

25 A Okay.

1 Q And I'd like to ask you why was it desirable for the
2 chief engineer to have membership in the Lutheran Church
3 congregation?

4 A Because the chief engineer went to area churches and
5 interacted with the pastors in the churches to organize remote
6 broadcasts from those churches. They worked in -- worked back
7 and forth with the minister to suggest techniques and orders
8 -- of how the order of service would go and which part would
9 be broadcast and which part would not be broadcast. And so
10 they, they would be speaking about the, the service that was
11 going to be broadcast.

12 Q Why couldn't someone without Lutheran -- a Lutheran
13 background do the same thing?

14 A I'm not saying that someone with a Lutheran
15 background couldn't do the same thing. The, the thing that
16 makes it somewhat useful is their interaction and flow with
17 the minister and the knowledge of how the service proceeds
18 from a broadcast perspective.

19 Q Did the chief engineer serve both the AM and the FM
20 station?

21 A Yes.

22 Q We talked about a receptionist position earlier and
23 that would be a position that would serve both stations too.
24 Is that correct?

25 A Yes.

1 Q What other employees served both stations?

2 A Business manager, chief engineer, receptionist. At
3 certain times throughout that period that was not only a
4 business manager but like a business director, an accountant.
5 That person would have. The operations manager did. The
6 general manager. The general manager at certain times.

7 Q In your opinion was it desirable for the business
8 manager at the stations to have Lutheran training or be a
9 member of a Lutheran congregation?

10 A In my opinion?

11 Q Yes.

12 A The business manager interacted on a daily basis
13 with the, with the Lutheran Church headquarters and may have
14 been desirable in my opinion. I don't know that it would be
15 absolutely necessary and --

16 Q Let me call your attention to Attachment 6 to your
17 testimony which is Church Exhibit 4.

18 A Okay.

19 Q And there's a chart there of full-time hires during
20 the license term. And I want to call your attention to the
21 first one on -- the first name on that chart, Stephen Benko,
22 B-E-N-K-O.

23 A Yes.

24 Q It indicates that, that the referral source was
25 Concordia Seminary. What does that mean? How was he referred

1 by Concordia Seminary? Was it an official referral, did the
2 president of Concordia call the station and say I'd like you
3 to consider Stephen Benko, or what does that mean on this
4 chart?

5 A Mr. Benko was a student at Concordia Seminary, was
6 aware that KFUD was on the same campus as Concordia Seminary
7 and that we were in fact partners in the church. So it would
8 be like a church referral, a seminary referral. Is it -- did
9 the president call up and say please hire Mr. Benko? I don't
10 believe so. In fact, I believe Mr. Benko wrote the station
11 applying for a position.

12 Q So, what this means then is that he came to be hired
13 at the station because of his connection with Concordia, or
14 because he learned about the position through his enrollment
15 at the Concordia Seminary?

16 A He learned about the station or he knew about the
17 station with Concordia Seminary, yes.

18 Q Let me call your attention to the next individual
19 named there, Theodore Preuss, and there -- and next to the
20 referral source there's nothing. Do you know how he came to
21 be referred?

22 A I believe I know how he came about coming to the
23 radio station, yes. He --

24 Q How?

25 A He -- well, I'm not 100 percent sure. I knew that